

Andover Conservation Commission Meeting Minutes

March 20, 2012

Town of Andover
36 Bartlett Street
3rd Floor Conference Room A
7:45 p.m.

Conservation Commission Members in Attendance:

Chairman Cooper, Commissioner Driscoll, Commissioner Fink, Commissioner Greenwood, Commissioner Honea, Commissioner Porter and Commissioner Walsh, Director Robert Douglas and Agent Cleary were also present.

SCHEDULED ITEMS:

1 Haybale Road

Present in Interest: Marc Ehr Gott
Staff Recommendation: Approve

Public Meeting on the Request for Determination of Applicability filed to determine if the proposed installation of a 20' x 40' in ground pool is subject to the Massachusetts Wetlands Protection Act, M.G.L. Chapter 131, § 40, and/or the Andover Wetlands Protection By-law, Article XIV. **DA2012-004**

Agent Cleary presented to the Commission that the lot is part of the Haybale Subdivision and subject to our By-Law. Being a Form A Lot it was given a different DEP # (090-0810) vs. 090-0812 for the other lots, drainage and roadway encumbered under the OOC for the subdivision. The Commission's denial was upheld in Superior Court and issued the first By-Law number (#00001). Under By-Law #00001, 1 Haybale Road was included (090-0810) and the subdivision and roadway (090-0812). The Commission's By-Law supersedes DEP's SOC for these two DEP #'s. 1 Haybale Road is in receipt of a Partial Certificate of Compliance under both DEP and our By-Law #00001 for work on this lot releasing it from the OOC.

The filing under the WPA and the By-Law is complete and ready for a decision this evening. This application is very close to a Green Star Application. The applicant has elected to use the as-built plan for the proposed pool and amenities. As such, waivers are requested for proposed topographical contours (which are not expected); tree line (lot is bare); and delineation of wetlands (non-disturb bounds were in per the OOC and staff located them all). The Commission was informed to vote on request for waivers first. The Staff review is the site comports to plan and the Lot is relatively flat. No change since inspection for Partial COC. All bounds and requirements in the OOC (stonewall and juniper plantings) are in place with no encroachment. Proposed work is greater than 50 feet from the BVW.

Commissioner Fink stated that the plan does not show grading & utilities lines. A grading easement on the depicted lot, due to abutter exceeding lot line since developer had to fix this.

Commissioner Porter made a motion to approve the Request for Waivers and to approve, as a Negative 3 (including language for pool backwash) and Positive 5 (subject to the By-Law) with staff to document waivers as Findings; it was seconded by Commissioner Driscoll and unanimously approved.

299 South Main Street

Present in Interest: Bill Held - homeowner

Staff recommendation: Prior to the meeting of Feb. 21st relative to the EO, staff was unable to locate many of the bounds. They were identified on the required site visit for this RDA and are sufficient in number and in appropriate locations. On a 2nd glance, it does not appear that a small portion of a hanging fence would be detrimental to the BVW.

Public Meeting on the Request for Determination of Applicability filed to determine if the proposed installation of a 5 ft. black vinyl coated wire mesh fence interior to property line (where fence crosses through BVW & adjacent buffer zones where it shall be suspended 6-8 inches above grade with cable at top of fence) is subject to the Massachusetts Wetlands Protection Act, M.G.L. Chapter 131, § 40. **DA2012-003**

Agent Cleary reminded the Commission that the Staff gave the long history version when the applicant was before the Commission on February 21, 2012, seeking some relief regarding the placement of fencing relative to an Enforcement Order requiring removal of the same issued on October 18, 2011. The Commission was split on whether the requirement to completely remove the fencing was necessary (if a portion could be raised for wildlife habitat). The Commission by majority vote (3-2) voted to uphold the EO. The applicant was encouraged to submit an RDA to allow the fence to remain and agree to certain conditions. The sense of the Commission was that if the applicant chose to go this route, the plan approved by the Commission under the EO could be used as the professionally prepared plan for the RDA. The project filing under the WPA only (house built in 1890) is complete and ready for a decision this evening. Approval of this RDA and subsequent full compliance of a Determination of Applicability would constitute full compliance with the EO dated October 18, 2011, and would be conditioned as such. Since the applicant is using the approved EO plan, certain waivers are required which include topographical contours, tree line, existing landscaping and location of sediment controls. The applicant is also requesting that the non-disturb bounds remain "as installed". If the Commission continues to be willing to entertain this RDA, then the above waivers submitted by the applicant should be voted on first. Staff review: Site visit conducted with the applicant on March 15, 2012, indicated that the area in question of the proposed lot is not a wildlife corridor for deer. The corridor appears to be in a southerly direction of the applicant's property moving easterly across South Main Street. Non-disturb bounds installed appear to be sufficient and in the correct locations, although not the number required.

Bill Held gave a waiver letter request dated March 20, 2012 to allow the non-disturbance boundary markers to remain as installed. The location of the non-disturbance bounds have been delineated on the plan drawing. Commissioner Fink stated that the fence should have a 6" - 8"

clearance, remain clean of debris for unobstructed flow of water, if suspended portion becomes damaged it should be removed.

Commissioner Greenwood made a motion to approve with the following Conditions and Waivers: 1) Maintain height of hanging fence 6" – 8" above grade for wildlife passage. 2) Keep Hanging Fence Area clean of debris, so that the flow of water is not blocked. 3) Fence through the wetland is to remain suspended at required height above grade or shall be fixed and or removed; The waivers are as follows: 1) no changes in topographical contours 2) no tree line shown 3) no sedimentation controls which are to be documented as Findings by Staff in draft; and it was seconded by Commissioner Honea and unanimously approved.

3 Regis Road

Present in Interest: Ben Osgood, Pennoni Associates

Staff recommendation: Close Public Hearing. Issue Order of Conditions with Findings as discussed noting Conditions #2, #3, & #8.

Public Hearing on a Notice of Intent filed under the Massachusetts Wetlands Protection Act, M.G.L. Chapter 131, § 40, for the proposed construction of a replacement septic system tank, pump chamber, leaching field and associated grading. **DEP File #090-1154**

Agent Cleary presented to the Commission that this site was a green star application. The applicant is filing for an upgrade of an existing septic system under the WPA *only* (house built 1967) is ready for a decision this evening. No waivers are needed or have been requested. There are no comments from DEP. Waivers will be requested from the BOH for inability to meet the 4 ft. required separation to groundwater which is likely to be granted. Also required from the BOH will be monolithic tank and pump chambers. Staff reviewed the wetland line and it was woefully inaccurate due to standing water and signs of hydrology and vegetation. The Engineer has revised plan to comport to the staff's findings. A new updated wetland line plan was submitted on March 20, 2012 at 1:30 pm. Commissioner Fink asked if we could raise the filtration bed an additional foot. The reason was for concern with water quality issues. The tree line shows lawn within the 25 ft setback requirements and Commissioner Fink asked if additional plantings would be required. Staff explained that it would easily revegetated do to sufficient hydrology.

Commissioner Walsh made a motion to approve the project, close Public Hearing and to issue the Order of Conditions with Findings as discussed #2, #3 & #8 as drafted; it was seconded by Commissioner Driscoll and unanimously approved.

70 Shawsheen Road (West Middle School)

Present in Interest: Cari Orsi- Pare Corporation, Pat & Carol Somone – 99 Shawsheen Road, Pallan Sham- 32 Shawsheen Road

Staff recommendation: Continue to April 3 to receive DEP's Comments and allow a Stormwater review to take place. Staff can also have an Order ready to issue should everything check-out. A SWPPP will be required and the Commission should be copied on this document.

Public Hearing on a Notice of Intent filed by Town of Andover Plant and Facilities Dept. under the Massachusetts Wetlands Protection Act, M.G.L. Chapter 131, § 40, and/or the Andover Wetlands Protection By-law, Article XIV, for the proposed project consisting of improvements to current school site, including site lighting, parking, sidewalks, curbing, and stormwater management improvements. **DEP File #090-1153**

Director Douglas presented to the Commission that this is a large school project with improvements to parking and storm water. Project is taking place in an area that was problematic a few years ago, due to was-bucket dumping being discharged to a wetland. We have no recent reports of this activity. Filing is Complete. Project will add treatment (80% TSS removal). Buffer impacts are minimized. Natives will be used for replanting.

From a wetland standpoint the resource area is fairly well defined, the amount of work proposed WITHIN the 100-foot buffer zone is just a fraction of the overall site. Staff does not see a need for a wetland biological peer review. Wetland line is easy to read and sharply delineated. HOWEVER, as the site has a large area of resurfacing and stormwater changes, I would recommend an Engineering review of the calculations. DEP has not released Comments for the site yet.

Ms. Cari Orsi from Pare Corporation presented to the Commission that the project would improve the ADA requirements for parking, safety, drainage, sidewalks and curb lines. The project will increase the emergency access around the back of the building to include the exit doors for egress would be updated to meet ADA requirements. There will be no increase in the pavement. The light on the current light poles would be updated and a possibility of adding additional lighting. If the project is delayed the applicant will be faced with budgetary constraints.

Commissioner Fink stated that we needed to look carefully at the grading in the South West quadrant of the playing fields. Carol Shoma of 99 Shawsheen Road was concerned about the lighting and timing of light schedule due to the location of her house. Ms. Orsi – Park Corporation responded that they were going to add more lights in the parking lot area and with be on timers with protective shields. Mr. Pallan Sham – 32 Shawsheen Road stated he is located approximately 400 ft from the property and that he has been seeing an increase in the stormwater drainage. Also, there were limited conditions downstream. Chairman Cooper suggested that he put his concerns in writing and send them to Director Douglas within 10 days. A peer reviewer should be hired to evaluate the stormwater. Commissioner Greenwood questioned whether there was a perennial stream around the property. The stream is an intermittent stream. The hired peer reviewer should look at whether it is an intermittent stream. Commissioner Fink asked if the

catch basins are going to be replaced? The other comment was about the roof runoffs and there is no indication of rain garden design? What are the long term issues and specifications?

Commissioner Walsh made a motion to approve to Continue Public Hearing to May 3, 2012 and; it was seconded by Commissioner Driscoll and unanimously approved.

360 South Main Street

Present in Interest: Bernard Paquin – Dana Perkins, Inc., David Kress & Robert Ede – Faith Lutheran Church

Public Hearing on an Abbreviated Notice of Intent under the Massachusetts Wetlands Protection Act, M.G.L. Chapter 131, § 40, for the proposed construction of a building addition (1,482 SF +/-) and covered walkway (426 SF +/-) adjacent to the existing Church Building. **DEP File #090-1151**

Agent Cleary presented to the Commission that the Faith Lutheran Church was before the Commission in the spring/summer of 2010 for a massive and complex build out which was broken down into two phases. This OOC which the Commission will vote on a COC (090-1094) this evening is because no work began on site (Phase 1 of the Improvement Project).

This first phase included mitigation and vegetative plantings; building additions, and extensive stormwater improvements including two detention ponds, fore bays, trench drains with sumps, etc. The engineer will speak to the Commission this evening on the original OOC, why no work commenced, and how the proposed work has diminished substantially. Staff would like to refresh the Commission's memory that this site (OOO to be released) underwent significant engineering peer review by Janet Bernardo, P.E. and was subject to the Act and the By-Law. This OOC was granted relief from meeting some of the Stormwater Management Regulations (supported by the Commission's peer reviewer) due to site constraints and inability to meet the required separation from groundwater. Site conditions have not changed. The engineer and representatives from the church held a pre-filing meeting with staff as to the best way to proceed with the revised proposed work. Staff recommended closing out the original Order of Conditions and the filing of an Abbreviated Notice of Intent (proposed work is in the buffer zone and met the requirements of the same). The filing as submitted is incomplete, under DEP review, and subject to the WPA only. Staff has discussed information that should be submitted with applicant's representative, who has agreed to the same. These items were discussed as well as other items the Commission wished to have incorporated. A waiver is requested for the small addition (compared to what was previously proposed) which encroaches slightly into the 50 ft. no-build area under the Commissioners Policy. It should be noted that this is a much smaller scale project and reduces the impervious surface on site with respect to the previous OOC. Applicant is also enhancing the BVW area. Roof infiltration has been added which the engineer spoke to. Application meets the Stormwater Management Regulations to the maximum extent practicable (again, issue is existing site conditions and separation to groundwater). Application includes S.W.P.P.P. that has been modified for this proposed work (from the original OOC). Submitted was a waiver letter for the proposed addition dated March 20, 2012 from Mr. Bernie Paquin; submittal of Site Locus Map,

Estimated Habitat Map and Flood Insurance Rate Map; assurance that all wetland flagging is in place (only some flags were visible); discussion on dewatering techniques and plan for the tracking of materials offsite. Mr. Paquin spoke briefly to these items and then they were addressed or submitted. Staff recommended to continue to a date uncertain and to permit a variable non-disturb buffer strip as in last OOC due to site constraints. An Addition of a filter mitt within proposed post and rail fence has been added. Mitigation plantings and installation of non-disturb markers should be accomplished prior to commencement of construction work.

Commissioner Walsh asked if this is what you want to build? Bernie Paquin from Dana Perkins presented to Commission what he submitted as changes tonight. The membership of the parish has not increased and did not want to proceed with the construction. It is more important to have a much smaller project approximately 1480 sq. ft. with a covered walkway to the existing building. This space would offer flexibility to meet all of their programming requirements and additional meeting space that is needed. Commissioner Fink suggested that shallow basins or grass swales could be installed with non-disturbance markers in the lawn area. Mr. Paquin will talk to his client about this.

Commissioner Walsh made a motion to continue Public Hearing to April 17th; it was seconded by Commissioner Driscoll and unanimously approved.

8 Snowberry Road

Present in Interest: Peter Hunt and Jack McQuilkan-JM McQuilkan Associates

Staff recommendation: Approvable project with proposed conditions an improvement over existing conditions. Three (3) BMP's have been added (CB grate and screen; CB sump and vegetated buffer swale). Since DEP has no comments, staff recommends that the Public Hearing be continued

Public Hearing on a Notice of Intent filed under the Massachusetts Wetlands Protection Act, M.G.L. Chapter 131, § 40, for the proposed construction of a driveway drain. **DEP File #090-1152**

Agent Cleary presented to the Commission that the Commission signed an EO for the site at their meeting of November 15, 2011, for unauthorized work proximate and/or within a resource area of Dug Pond. The work included excavation and trenching to the pond, installation of a catch basin in the driveway, etc. The Commission required the homeowner/violator to appear before the Commission on December 15, 2011. On December 15, 2011, the Commission issued a 2nd EO requiring the homeowner/violator to file a Notice of Intent to install a catch basin in driveway with drainage pipe and associated BMP's (the Commission was sympathetic to the homeowner's flooding/drainage problems). This Notice of Intent is now before the Commission. Filing before the Commission is not complete and under the WPA only (house was built in 1980). DEP has no comments. A waiver may be required for the grassed swale should the Commission approve the revised plan to be discussed tonight based. Staff reviewed the Wetland boundary and found it not accurate, and it has been discussed with engineer and this is reflected on the revised plan (including bank not flagged surrounding culvert pipe in Town Drainage Easement). Wetland flags 9A-12A inclusive not depicted on original plan (9A and 11A required to be moved up) which are reflected on the revised plan submitted tonight. Street drain needs work (not homeowner's responsibility) –

Town should clean culvert on drainage easement. Engineer to submit Estimated Habitat Map, Flood Insurance Rate Map, and Soil Survey Map this evening to make application complete.

John McQuikin, P.E. submitted a letter on March 20, 2012 in reference to a waiver to allow a grass swale to be constructed within 25 foot "no disturb" zone and (3) photographs.

Commissioner Honea stated that the site was an improvement over the previous conditions that we are trying to address. Agent Cleary stated the Commission standard conditions are required for maintenance of the BMP Structures in perpetuity which will be incorporated in the OOC. Commissioner Greenwood asked for an easement document. The Commission expects clarification of the easement where the proposed work is to occur. Commissioner Fink suggested that it makes sense to have the easement recorded at the registry of deeds.

Commissioner Greenwood made a motion to continue to a Date Uncertain for the project, it was seconded by Commissioner Honea and unanimously approved.

ACTION ITEMS:

7 Haybale Road

Present in Interest: Doug Ahern, Jeffco

Staff Recommendation: Approve

Consideration of significance under the Massachusetts Wetlands Protection Act, M.G.L. Chapter 131, § 40, and/or the Andover Wetlands Protection By-law, Article XIV. The proposed changes include adding a finished sunroom at the back of the house. **DEP File #090-0812 and By-Law #00001**

The previous order required rooftop infiltration. Commissioner Fink questioned where the roof leaders installed, and location of cleanouts on the drawings. Equipment should not drive over these systems. Agent Cleary stated that Ann Marton the site monitor wanted the location of the infiltration system and if the roof leaders had been connected. This will need to be inspected by her before any construction can begin. Doug Ahern from Jeffco stated that the infiltration system has been installed including the snow fence. He will contact Ann Marton to identify the location of system and surrounded with a snow fence.

Commissioner Walsh made a Motion to approve Consideration of Significance with Conditions to include: 1) Infiltration System to be installed, 2) Roof Leaders Connected; 3) Letter to be recorded at Registry of Deeds; it was seconded by Commissioner Driscoll and unanimously approved.

3 Gregory Circle

Present in Interest:

Staff Recommendation: Approve

Consideration of significance under the Massachusetts Wetlands Protection Act, M.G.L. Chapter 131, § 40, and/or the Andover Wetlands Protection By-law, Article XIV. The proposed changes include a revised footprint and minor alteration to a lot line. **DEP File #090-1108**

Commissioner Driscoll stated with the 8 – 10 feet of fill she was unable to see the extra land and complete clearing. Mr. Douglas stated the extra fill was being stock piled outside the buffer zone.

Commissioner Walsh made a Motion to approve Consideration of Significance; it was seconded by Commissioner Honea approved with 6 approved and 1 opposed (Commissioner Driscoll) the motion was passed.

27 Summer Street

Present in Interest:

Ratification of Emergency Certification for Department of Public Works (Engineering) to repair a failing retaining wall/culvert with potential to cause bodily harm or injury.

Commissioner Walsh made a Motion to approve to Ratify Emergency Certification for the DPW; it was seconded by Commissioner Honea and unanimously approved.

4 Willoughby Lane

Present in Interest: Steve Erikson- NES

Request for Certificate of Compliance **DEP #090-895**

Agent Cleary stated that there were changes on the whole site making the site in violation to the Order of Conditions. A hot tub was added; pool slightly different landscape retaining walls, enlarged deck, patios, etc. All changes should be documented and quantified on a full site plan.

Commissioner Walsh made a Motion to Deny to Issue Certificate of Compliance due to changes to OOC and to Issue an Enforcement Order; it was seconded by Commissioner Honea and unanimously approved.

CONSENT AGENDA:
360 South Main Street

Request for Certificate of Compliance (no work commenced). **DEP File #090-1094 (LC)**
Commissioner Walsh made a Motion to approve Certificate of Compliance; it was seconded by Commissioner Honea and unanimously approved.

Minutes

Approval of minutes from Meeting of February 21, 2012.

Commissioner Walsh made a Motion to approve the minutes of February 21, 2012, as drafted; it was seconded by Commissioner Honea and unanimously approved.

18 & 20 Iron Gate Drive
Request for Certificate of Compliance. DEP File #090-111

Mr. Douglas stated that the site requires discussion since there were minor changes from the Order. Pavers have been put down and the pool has been moved further from the wetlands.

Commissioner Walsh made a Motion to approve Certificate of Compliance; it was seconded by Commissioner Honea and unanimously approved.

DISCUSSION ITEMS:

337 & 341 South Main Street
Present in Interest: Tom Meuse – Land Owner

Tom Meuse of Keyes Road, Westford MA would like to donate his land to Conservation Division. The Commission Greenwood made a Motion to accept the gift and to give permission to move forward to the next step; it was seconded by Commissioner Driscoll and unanimously approved.

Erosion Control Template

Vote on revision to template based on information received at MACC Annual Conference.

Commissioner Greenwood and Linda Cleary attended a workshop at the MACC Annual Conference earlier this month relating to erosion and sediment control. As Commissioner Greenwood expressed at the last meeting, hay bales are out and waddles filter mitts, erosion blankets, erosion mats, etc. are in. Our old boiler plate specifically states to install hay bales. Staff has changed the boiler plate language for the “erosion control” condition to be more site specific which was mentioned at the conference. Below is what Commissioner Greenwood and Staff have worked on and will be presented as the change. **INSTALLATION OF EROSION CONTROL.**

Prior to commencement of work the applicant shall retain the services of the design professional or a Professional Land Surveyor to stake out the location of the proposed sediment controls. The applicant shall then install appropriate sediment controls in accordance with the above-referenced plans that have been approved by an Agent for the Commission and are specific to site conditions. A written request for inspection of the erosion control shall be submitted to the Conservation Commission, and a satisfactory inspection performed before any land-disturbing activity may commence. The Conservation Commission or its agents may require other sediment controls as field conditions warrant. The siltation control device shall be the Limit of Construction beyond which no earth-disturbing activity shall occur or heavy equipment shall be allowed. All siltation and erosion controls shall be maintained in a state of good repair. The siltation control devices shall not be removed until the Commission or its Agent has reviewed and found satisfactory the stabilization of the disturbed area.

Commissioner Greenwood made a Motion to approve Revision to Erosion Control Template; it was seconded by Commissioner Driscoll and unanimously approved.

7 Manning Way

Vote to approve removal of trees that have been flagged. DEP File #090-0969

A Motion was made by Commissioner Greenwood and seconded by Commissioner Driscoll to deny removal of any trees that have been blue flagged on site. The Vote was four approved and three denied (Commissioner Porter, Commissioner Walsh and Commissioner Honea). The Motion passed by majority vote.

Near 26 & 28 Andover Country Club Lane

Present in Interest: Rimma Grossman

Discussions on the update to the destruction of wetlands near **26 & 28 Andover Country Club Lane** in reference to Enforcement Order (June 2011). Consider and give the green light to replant ion plan.

Rimma Grossman expressed her concern about the current Enforcement Order and the planting season is fast approaching. She stated that she was supposed to be receiving all drawings associated with this address. Chairman Cooper gave Ms. Grossman a copy of the plan this evening. The Commission will give Ms. Grossman time to review the plan and address her comments to Director Douglas within two weeks. Mr. Douglas will issue a new Enforcement Order.

The next meeting will be held at 7:45 p.m. on April 3, 2012.

The meeting was adjourned at 10:55 p.m. by Motion of Commissioner Greenwood. It was seconded by Commissioner Driscoll and unanimously approved.

Respectfully submitted by:
Wendy Adams
Recording Secretary